

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 546 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : NO
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

-----  
RAMESHBHAI ALIAS GOVINDBHAI CHIMANBHAI PATNI (VAGHRI)

Versus

STATE OF GUJARAT

-----  
Appearance:

MS JAYSHREE C BHATT for Petitioner

MR KT DAVE AGP for Respondent No. 2

-----  
CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 03/02/2000

ORAL JUDGEMENT

#. Heard Ms.J.C.Bhatt for the petitioner. Learned AGP Mr.K.T.Dave, has waived service as he has appeared in response to the notice served to the respondent No. 2 & 3 and has also waived service of notice for respondent No.1.

#. The petitioner is the wife of the detenu one Rameshbhai alias Govindbhai Chimanbhai Patni (Vaghari). The petitioner has filed the present petition for the relief to release the detenu for a period of 1 week on suitable terms and conditions so as to enable the detenu to attend MAMERA ceremony at the time of marriage of the daughter of the sister of the detenu which is to be held on 3rd February 2000 at Bapunagar, near Indira Nagar, Ahmedabad between 2.00 P.M. and 3.00 P.M.

#. The husband of the petitioner is detained under the provisions of Gujarat Prevention of Anti Social Activities Act, 1985 vide order dated 3-1-2000 passed by respondent No: 2 - The Commissioner of Police City of Ahmedabad and at present he has been committed in Jamnagar Jail. It may be noted that the detenu has not challenged the detention by filing any proceedings. However, the present petitioner had addressed application dated 27-1-2000 to the Hon'ble Chief Minister requesting to grant parole to the detenu for a period of 15 days so as to enable the detenu to attend the marriage of the daughter of his sister. It is averred and contended by the petitioner that authority having not decided the application of the present petitioner claiming parole of the detenu, the present petition is moved on 1st February 2000.

#. Vide earlier order dated 1st February 2000, urgent show cause notice was issued to the respondents and the learned AGP was directed to instruct the concerned authority to decide the application of the petitioner dated 27-1-2000.

#. Today, learned AGP has shown the original file where, it is stated that the detenu is having 3 other brothers who could attend the MAMERA ceremony at the time of marriage of the daughter of sister of the detenu. It is also stated that the detenu is an armed police constable and is involved in about 11 criminal cases of serious offences punishable under Chapter XVI & XVII of IPC. That looking to the past activities of the detenu, the Police Commissioner has made an adverse remark against granting parole. That on account of instructions sent by this Court through learned AGP, application of the petitioner was decided on 2nd February 2000 by the authority concerned and signed by the Home Minister rejecting the request of the parole.

#. During the hearing, learned advocate for the petitioner has stated at bar that the petitioner was not

properly advised while making application for parole and as such, necessary facts could not be averred in the application. It is stated at bar on behalf of the petitioner by the learned advocate that the husband of the petitioner is having three brothers, one elder brother is of unsound mind and two other brothers are younger and minor, whereby, the husband of the petitioner is the only responsible person who could take part into MAMERA ceremony. The learned advocate has also stated at bar that if parole is not available to the detenu, the family members of the detenu are willing to pay the cost of heavy escort, if on appropriate condition, detenu is taken at the place of marriage as stated in the petition.

#. Considering the facts and circumstances involved in the matter and particularly the fact that wife of the petitioner being illiterate, could not move appropriate application in time, as well as the necessary facts could not be placed before the authority to consider the request on the part of the detenu and as such, in the facts and circumstances of the present case, it would not be unjust and improper if the authorities are directed to take detenu so as to enable the detenu to attend MAMERA ceremony at the place of marriage of daughter of sister of detenu at the cost of heavy escort to be paid by the petitioner in advance.

#. In view of the above stated discussions, respondent No.3 is directed to make appropriate arrangements so as to take detenu RAMESHBHAI ALIAS GOVINDBHAI CHIMANBHAI PATNI with heavy escort at the place of marriage situate at Indira Nagar hutments, near last bus stand of Bapunagar, bus route No : 137 A. The necessary arrangement shall be made so that the detenu remain present at the time of marriage ceremony which is to be held in the night hours of Thursday, 3rd February 2000. The respondent No.3 shall make appropriate arrangement of providing necessary escort so as to prevent any untoward incident. The petitioner shall deposit the amount of necessary cost in advance before the concerned authority. The respondent No : 3 is further directed to take back the detenu as soon as the marriage ceremony is over to the jail premises and report to the concerned authority. Rule to the aforesaid extent is made absolute. The petition stands disposed of accordingly.

Date : 3-2-2000 [A.K.Trivedi, J.]

PS : A copy of the writ be given to the petitioner so  
as to sent the same to respondent No : 3 by Fax  
Message at his own cost.

#kailash#